

COUNTY OF KAUAI
Minutes of Meeting
Open Session

Board/Committee:	LIQUOR CONTROL COMMISSION	Meeting Date	January 7, 2016
Location	Mo'ikeha Building, Meeting Room #3	Start of Meeting: 4:01 p.m.	End of Meeting: 4:53 p.m.
Present	Chair Paul Endo, Vice Chair Shirley Akita; Members: Jean Iida, Gerald Matsunaga, Dane Oda, Josephine Sokei, Pauline Ventura Also: Liquor Control Staff: Director Gerald Rapozo, Private Secretary Cherisse Zaima; Deputy County Attorney Nicholas Courson		
Excused			
Absent			

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SUBJECT	DISCUSSION	ACTION
Call To Order		Chair Endo called the meeting to order at 4:01 p.m. with 7 members present, constituting a quorum.
Roll Call	Director Rapozo called roll, noting 7 members were present.	
Approval of the Agenda		Mr. Matsunaga moved to approve the agenda. Ms. Akita seconded the motion. Motion carried 7:0.
Continuance of Public Hearings	<p><u>PIETRO'S PIZZA</u>: Application No. 2016-71 was filed on October 13, 2015 by Pietro's Hawaii LLC dba Pietro's Pizza for a Restaurant General (live entertainment and dancing) license located at 3501 Rice Street, Līhu'e, Kauai, Hawaii was opened on December 17, 2015 and continued to January 7, 2016 at 4:00 p.m. or shortly thereafter in Meeting Room #3 of the Līhu'e Civic Center, Mo'ikeha Building, 4444 Rice Street, Līhu'e, Kauai, Hawaii.</p> <p>Pastor Tom Iannucci, owner, was present. Ms. Noelani Pomroy was present representing her neighborhood.</p>	

	<p>Mr. Iannucci stated that he met with Ms. Pomroy, and other neighbors, and that they have agreed upon specific parameters on the operation of the business.</p> <p>Ms. Pomroy stated that she was not there in opposition of the application, but rather to set conditions of the application's approval.</p> <p>Commissioner Akita requested that the conditions agreed upon by both parties be included as a matter of record. Director Rapozo noted that a copy of the conditions have been provided to the Commission for review. (document on file)</p> <p>Mr. Iannucci explained that there were some objections by his neighbors, which he felt were valid, and should not be discounted. In understanding of their concerns, he offered suggestions on what he could do to alleviate some of those concerns. Both parties went back and forth to refine those suggestions into the list currently presented to the Commission. Mr. Iannucci stated he is fine with the conditions the neighborhood has presented, and hopes this type of compromise will set a precedence for future applicants.</p> <p>Commissioner Akita asked Director Rapozo to clarify that the conditions presented are an agreement between the applicant and the neighbors, noting that should the license be granted, the Commission, and the Department will be governed by the Rules of the Liquor Commission. She asked whether the parties understood that.</p> <p>Mr. Iannucci confirmed that he understood, for example, that hours of operation could not be set by the Commission, but can be agreed upon between himself and the neighbors.</p> <p>Commissioner Matsunaga asked for an opinion from Deputy County Attorney Courson on the proposed conditions. Mr. Courson stated, as previously noted by Commissioner Akita, certain conditions such as business hours may be problematic, and would advise against the Commission including that as a condition of approval. However, it seems</p>	
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	<p>both parties are understanding that the Commission would not be enforcing such a condition as it is not within the purview of the Commission. Historically, the Commission has limited times that live entertainment can take place, which would be within its purview. As was noted by Director Rapozo, Mr. Courson stated Conditions 2 & 5, limiting the hours of when live entertainment can occur, and the type of music (acoustic) that can be played, seem clearly within the Commission's purview. He explained that some of the other conditions can be enforced by the owner. Mr. Courson expressed concern with Condition 3, specifically, stated they could run into problems with Hawaii State Law, which already has specific rules about the transferring of liquor licenses.</p> <p>Commissioner Matsunaga stated that he wanted to ensure it was very clear to Ms. Pomroy that though they have an agreement with Mr. Iannucci, some of the conditions they have suggested may not be enforceable by the Liquor Commission, and he does not want her to be misled into thinking that this written agreement means the Commission must enforce all of the conditions. The Commission can only enforce what is stated in the Liquor Laws; everything else would have to be worked out among the owner and the neighborhood. Ms. Pomroy stated she understood that, and asked for clarification on Condition 3 regarding the transfer of the liquor license; does the Liquor Commission not have jurisdiction over that?</p> <p>Attorney Courson explained the Liquor Commission does have jurisdiction, but the State's law (HRS 281-41) regarding transfer of licenses sets the parameters under which the license could be transferred. Mr. Iannucci stated that he understands the laws the Commission is governed by, and ensured that he is not asking for a blanket decision on all transfers, but given that he and the neighbors have come to an agreement, he asked for consideration that this particular application include the requested restrictions on the transfer of licenses within this 500' radius. He wants to ensure that should he sell the business, the new owner will abide by these same agreed upon conditions.</p> <p>The public hearing for Application No. 2016-71 was closed.</p>	
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	<p>Commissioner Matsunaga pointed out that in the event of a transfer, it would still need to come before the Liquor Commission, at which time the public would have the opportunity to oppose it.</p> <p>Director Rapozo also noted that should Mr. Iannucci want to sell the business, he is not obligated to transfer the license to the new owners.</p> <p>Ms. Pomroy asked whether their request that live entertainment and dancing end by 10:00 p.m. could be enforced by the Commission to which Director Rapozo stated that is something the Commission CAN include as part of a condition of the license, as well as determining the type of music.</p> <p>Ms. Pomroy asked if they could also enforce that the serving of alcohol end at 10:00 p.m. to which Director Rapozo stated that would have to be an agreement between the owner and the neighbors, explaining that, legally, this type of license allows the sale of alcohol until 2:00 p.m. Commissioner Akita stated that once the Commission grants the license, they are governed by the legal parameters of that particular type of license. That request would have to be agreed upon between the owner and the neighbors, and would NOT be enforceable by the Commission.</p> <p>Commissioner Matsunaga requested that the agreement between the parties be part of the record, to which staff replied that anything that has been discussed will be included in the meeting minutes, and a copy of the written conditions will be included as well.</p>	
Public Hearing	<p><u>KOA KEA HOTEL & RESORT AT POIPU BEACH</u>: Application Number 2016-94 was filed on December 8, 2015 for transfer of Hotel License No. 12G-011 from CTF Koa Kea Hotel LLC dba Koa Kea Hotel & Resort at Poipu Beach to Van Wescomp Hawaii, Inc. dba Koa Kea Hotel & Resort at Poipu Beach located at 2251 Poipu Road, Kōloa, Kauai, Hawaii.</p> <p>Mr. Robert Ueoka, counsel, was present representing the applicant along</p>	<p>Ms. Akita moved to approve Application No. 2016-71 with the condition to limit live music and dancing to acoustic style music, ending at 10:00 p.m. Ms. Iida seconded the motion. Motion carried 7:0.</p>

	<p>with Nate Tanner, Vice President of Van Wescomp Hawaii, Inc.</p> <p>Commissioner Oda asked to clarify that the licensed premise includes the entire property, including the pool, hotel rooms, and restaurants. Director Rapozo replied that is a typical practice for Hotel licenses.</p> <p>The public hearing for Application No. 2016-94 was closed.</p>	<p>Mr. Matsunaga moved to approve Application No. 2016-94. Ms. Iida seconded the motion. Motion carried 7:0.</p>
Violation Hearings	<p><u>POIPU BEACH ATHLETIC CLUB</u>: Violation of HRS Section 281-78(b)(1)(A) Prohibitions.</p> <p>Mr. Anthony Carll, General Manager, was present representing the licensee, along with Bronson Bautista of Blue Knight Security; no counsel. Charges admitted.</p> <p>Mr. Carll stated that he was not present to witness the events that led to the violation, but that Mr. Bautista was the first person on the scene. He stated that for concert events, they have a 5-foot wide barrier between the under-21 side, and the over-21 side, and the beer garden is located on the opposite side of the property, and away from the underage crowd. He explained that on this night, two over-21 patrons jumped the 5-foot barrier to give the under-21 patron a beer, and it just happened to occur right in front of Investigator Herman, and the security guards, who all stepped in to take action immediately. All three patrons were escorted off the property, but the under-21 patron was held by the Investigator, questioned, and written-up. Mr. Carll noted that this is not a normal practice, and they do not allow under-21 patrons to consume liquor; they do everything in their power to ensure everyone has a safe and fun time. The reason they allow under-21 patrons is to provide something for the entire community, and have more family-oriented events. If he felt having under-21 patrons on the property,</p>	

	<p>he would not have allowed it, or would have considered not serving alcohol. In this case, the licensee did everything they could to ensure no underage drinking.</p> <p>Commissioner Oda asked to clarify whether there is a statute regarding an overage person providing alcohol to an underage person to which Director Rapozo replied yes, there is. Commissioner Oda asked that in the future, in addition to the underage patron, the licensee also detain the ones that provided the liquor. Mr. Carll explained that the two overage patrons started a fight with the security guards, and were then escorted off the property. They do have their names and information, however, due to the circumstances at the time, they felt the best thing to do was to remove them from the property. Mr. Carll noted that all three patrons involved in the incident are banned from the property for life.</p> <p>Chair Endo asked how long Poipu Beach Athletic Club has been in operation to which Mr. Carll replied since July 2015, but he personally has been involved in the restaurant and bar business for over 10 years on O'ahu; this is his first establishment on Kauai. Chair Endo asked what kind of barrier is used to separate the age groups to which Mr. Carll replied they are crowd control barriers rented from Roadway Solutions, are made of metal, and are about 4 feet high. The barriers run from the front of the stage, all the way to the back of the venue, and security guards are placed on both sides, where they walk up and down the aisle throughout the night. Within seconds of this incident taking place, Investigator Herman and the security guards were there to stop it. In all the years he has been in this business, he has never seen anyone jump a barrier like that.</p> <p>Commissioner Akita asked how often they have had concerts like this to which Mr. Carll stated they did 6 last year, noting again that this is the first time in 10 years that he has had a violation of this nature.</p>	
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	<p>Chair Endo asked whether security will be tightened up now, and what kind of changes will be made. Mr. Carll stated for the next event they will be doubling up on security, and utilize more off-duty sheriffs, and off-duty corrections officers. They are looking to have well over 40 security staff, and will have parking lot control as well. Prior to each event they meet with the Police Department and the Fire Department to discuss safety and security.</p> <p>Chair Endo asked what kind of attendance, as far as numbers, do they draw. Mr. Carll stated UB40 sold out at 2,000 people. The next event should pull in the same amount of people, however, they plan to do 21 and over for that particular event. He noted that this particular event that they received the violation at has less than 1,000 people, but he feels the type of music drew a different type of crowd. Mr. Carll also noted that they have since discussed making the barrier 10-feet wide instead of 5-feet.</p> <p>Commissioner Matsunaga asked whether the police were called to which Mr. Carll stated yes, but by the time they arrived, the two over-21 patrons had left. Investigator Herman stated that he cited the under-21 patron.</p> <p>Attorney Courson asked how long the minor had possession of the liquor, and how long had he been drinking. Mr. Bautista explained that by the time the two over-age patrons jumped the barrier, three security guards immediately responded, and the officer posted in the under-21 section approached the two patrons in less than a minute. The minor did not have any alcohol on his breath, and there was no indication that he had been drinking prior to that.</p> <p>The violation hearing was closed.</p>	<p>Mr. Matsunaga moved that a fine of \$2,000 be imposed. Ms. Iida seconded the motion. Motion carried 7:0.</p>
	<p><u>PARADISE BAR & GRILL</u>: Violation of Rule 7.8(a) Manager on Duty, Qualifications.</p>	

	<p>Tim Grooms, owner, was present; no counsel. Charges admitted.</p> <p>Mr. Grooms explained that he did have a manager with a blue card scheduled, and on duty at 4:30 – they open at 5:00. He had inadvertently overstaffed for the evening, and that manager took it upon herself to not work that night. The other blue card holder was scheduled to come in at 6:00. He acknowledges that it is his fault for not being there to ensure the manager stayed and did her job as scheduled. He commented that the manager was actually sitting at the bar at the time the investigator arrived, however, she was not on duty and had a beer in front of her.</p> <p>In response to Chair Endo, Mr. Grooms stated he has discussed the situation with that manager.</p> <p>The violation hearing was closed.</p>	
Approval of the Minutes	<u>MINUTES OF THE MEETINGS OF DECEMBER 3, AND DECEMBER 17, 2015</u>	Ms. Akita moved to impose a fine of \$500 with \$250 suspended provided there is no conviction of the same violation for 1-year ending January 7, 2017. Ms. Iida seconded the motion. Motion carried 7:0.
1.	<p><u>DIRECTOR'S REPORT:</u></p> <p>a) <u>INVESTIGATORS' REPORTS</u></p> <p>b) <u>INCOMING COMMUNICATIONS:</u></p> <ul style="list-style-type: none"> (1) From Avid Marketing Group (2) From Delicato Family Vineyards (3) From The Wine Group (4) From Arrowhead Promotion & Fulfillment (5) Disturbance reports from Big Wave Dave's, Kalapakī Joe's Kukui Grove, Kauai Beach Resort, and Kauai Island Brewing Co. 	Ms. Ventura moved to approve the minutes. Ms. Iida seconded the motion. Motion carried 7:0.

	<p>c) <u>OUTGOING COMMUNICATIONS:</u> (1) To Avid Marketing Group (2) To Delicato Family Vineyards (3) To JH Pacific Restaurants (4) To The Wine Group (5) To All Wholesale Licensees (6) To Koa Kea Resort (7) To Pietro's Pizza</p> <p>d) <u>EMPLOYEES IN LICENSED PREMISES:</u> Managers and Assistant Managers – See Attachment.</p> <p>e) <u>ACTIONS OF THE DIRECTOR:</u> (1) FOODLAND PRINCEVILLE (2) JOSSELIN'S TAPAS BAR & GRILL (3) OVER PAR (4) TAHITI NUI (5) WRANGLER'S STEAKHOUSE (6) PRINCESS CRUISE LINES, LTD. (7) HOLLAND AMERICA LINE N.V.</p> <p>f) <u>INFORMATIONAL MATTERS:</u></p>	<p>Ms. Iida moved to receive Items 1 (a) through (f). Ms. Sokei seconded the motion. Motion carried 7:0.</p>
2.	<p><u>CANCELLATION OF LIQUOR LICENSE:</u></p> <p><u>KAUAI HULA GIRL BAR & GRILL:</u> Effective January 6, 2016, cancellation of Restaurant General License No. 2G-064 issued to Kauai Hula Girl Bar & Grill, Inc. dba Kauai Hula Girl Bar & Grill.</p>	<p>Ms. Iida moved to approve the cancellation of liquor license. Mr. Oda seconded the motion. Motion carried 7:0.</p>
3.	<p><u>CANCELLATION OF LICENSE AND TRANSFER OF LIQUOR INVENTORY:</u></p>	

	a) <u>KALAPAKI JOE'S (WAIMEA)</u> : Effective December 19, 2015, cancellation of Restaurant General License No. 2G-079 issued to Valente Holdings, LLC dba Kalapakī Joe's and request permission to transfer remaining liquor inventory to Kalapakī Joe's (Poipu) located at 1941 Poipu Road, Kōloa, Kauai, Hawaii.	Ms. Iida moved to approve the cancellation of liquor license and transfer of liquor inventory. Mr. Oda seconded the motion. Motion carried 7:0.
	b) <u>WHALERS GENERAL STORE (WAIPOULI)</u> : Effective November 29, 2015, cancellation of Retail Dealer General License No. 4G-065 issued to Food Pantry, Ltd. dba Whalers General Store and request permission to transfer remaining liquor inventory to Foodland Princeville located at 5-4280 Kūhi'ō Highway, Princeville, Kauai, Hawaii; Foodland Waipouli located at 4-771 Kūhi'ō Highway, Kapa'a, Kauai, Hawaii; and Whalers General Store located at 4-4350 Kūhi'ō Highway, Anahola, Kauai, Hawaii.	Ms. Iida moved to approve the cancellation of liquor license and transfer of liquor inventory. Mr. Oda seconded the motion. Motion carried 7:0.
4.	<u>CANCELLATION OF LIQUOR LICENSE AND PERMISSION TO SELL LIQUOR INVENTORY</u> <u>CJ'S STEAK & SEAFOOD</u> : Cancellation of Restaurant General License No. 2G-037 effective December 14, 2015, and request to liquidate all unopened alcohol through auction.	Ms. Iida moved to approve the cancellation of liquor license and permission to sell liquor inventory. Mr. Oda seconded the motion. Motion carried 7:0.
5.	<u>SALE OF 25% OR MORE OF OUTSTANDING CAPITAL STOCK</u> : <u>KAUAI BOWL, INC.</u> Transfer of 100% of outstanding capital stock to Ms. Kelly Passmore.	Ms. Iida moved to accept the sale of 25% or more

		of outstanding capital stock. Mr. Oda seconded the motion. Motion carried 7:0.
6.	<u>SOLICITOR'S PERMIT:</u> <u>JESSE SCHWARTZ:</u> Application No. 2016-106 was filed on December 18, 2015 by Jesse Schwartz for a Solicitor's Permit in the County of Kauai to represent Chambers & Chambers Wine Merchants, a Wholesale General licensee in the City & County of Honolulu. Deposited \$180.	Ms. Iida moved to approve Application No. 216-106. Mr. Oda seconded the motion. Motion carried 7:0.
7.	<u>CHANGE OF FIRM NAME:</u> <u>KAUAI LAGOONS:</u> Change of firm name on Dispenser General License No. 5G-001 from "Kauai Lagoons" to "Hokuala Golf Club".	Ms. Iida moved to accept the change in firm name. Mr. Oda seconded the motion. Motion carried 7:0.
Announcements	Next Scheduled Meeting: Thursday, January 21, 2016 – 4:00 pm, Mo'ikeha Building, Meeting Room #3.	
Adjournment		Chair Endo adjourned the meeting at 4:53 p.m.

Submitted by: _____
Cherisse Zaima, Private Secretary

Reviewed and Approved by: _____
Paul Endo, Chair

- () Approved as is.
() Approved with amendments. See minutes of _____ meeting.